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COMMISSION ON HUMAN RIGHTS
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Discrimination and Protection
of Minorities
Forty-fourth session
Agenda item 21

DRAFT REPORT OF THE SUB-COMMISSION ON PREVENTION OF DISCRIMINATION AND PROTECTION OF MINORITIES ON ITS FORTY-FOURTH SESSION

Rapporteur: Mr. Marc Bossuyt

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* E/CN.4/Sub.2/1992/L.10 and addenda contain the draft chapters of the report relating to the organization of the session and the various items on the agenda. Resolutions and decisions adopted by the Sub-Commission, as well as draft resolutions and decisions for action by, and other matters of concern to the Commission on Human Rights will be contained in documents E/CN.4/Sub.2/1992/L.11 and addenda.

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A. Resolutions

1992/1. Encouragement of universal acceptance of human rights instruments

The Sub-Commission on Prevention of Discrimination and Protection of Minorities,

Recalling its resolutions 1 B (XXXII) of 5 September 1979, 19 (XXXIV) of 10 September 1981, 1982/3 of 7 September 1982, 1983/27 of 6 September 1983, 1984/36 of 30 August 1984, 1985/5 of 27 August 1985, 1988/30 of 1 September 1988, 1990/24 of 31 August 1990 and its decision 2 (XXXIII) of 11 September 1980 on the encouragement of universal acceptance of human rights instruments,

Having considered the note by the Secretary-General (E/CN.4/Sub.2/1992/27) relating to communications with Member States concerning the ratification of, or accession to, the relevant human rights instruments, and developments in that regard since the forty-second session of the Sub-Commission,

Convinced that attaining universal acceptance and implementation of international instruments in the field of human rights is of primary importance for the protection and promotion of human rights,

1. Takes note with appreciation of the ratification or accession by several States to the instruments contained in the list of human rights instruments under paragraph 1 of its resolution 1 B (XXXII), as complemented by its resolutions 1982/3, 1983/27, 1984/36 and 1985/5;

2. Decides to include the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families and the Second Optional Protocol to the International Covenant on Civil and Political Rights, aiming at the abolition of the death penalty, in the list of human rights instruments;

3. Expresses its appreciation for the programme of advisory services in the field of human rights by which ratifications of, or accessions to, the international instruments on human rights have been accelerated;

4. Requests the Secretary-General further to promote the programme of advisory services so that practical assistance in the process of ratification and implementation of international instruments on human rights is available for those States which indicate a need for such assistance;

5. Requests the Secretary-General to renew the invitation for submission of information contained in his earlier notes verbales to the

Governments of Member States which have not yet replied to those communications, making particular reference to the human rights instruments to which those Governments have not yet become party and drawing the attention of each Government to the instruments which it has already signed but not ratified;

6. Also requests the Secretary-General to continue holding informal discussions concerning prospects for ratification of human rights instruments with government delegations on such occasions as the sessions of the General Assembly and the Commission on Human Rights, priority being given to the instruments prepared by the Commission on Human Rights such as the International Covenant on Economic, Social and Cultural Rights, the International Covenant on Civil and Political Rights, the First Optional Protocol to that Covenant, the International Convention on the Elimination of All Forms of Racial Discrimination, the International Convention on the Suppression and Punishment of the Crime of Apartheid, the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment and the Convention on the Rights of the Child;

7. Further requests the Secretary-General to continue to inform the Sub-Commission, as appropriate, on his endeavours under the present resolution and to update the table containing a country-by-country record of developments which have taken place in connection with the ratification of, or accession to, the human rights instruments included in the terms of reference of the Sub-Commission;

8. Decides to request the Chairman of the Sub-Commission to appoint, prior to its forty-sixth session, one of its members to report to it at that session on information received under the present resolution, to analyse difficulties impeding ratification of, or accession to, the above-mentioned instruments and to assess the programme of advisory services in the field of human rights with a view to further encouraging universal acceptance of human rights instruments;

9. Also decides to continue consideration of the agenda item entitled "Encouragement of universal acceptance of human rights instruments" at its forty-sixth session and at subsequent alternate sessions of the Sub-Commission.

17th meeting
14th August 1992

[Adopted without a vote. See chap. XIII.]

1992/2. Report of the Working Group on Contemporary Forms of Slavery

The Sub-Commission on Prevention of Discrimination and Protection of Minorities,

Taking note of the report of the Working Group on Contemporary Forms of Slavery on its seventeenth session (E/CN.4/Sub.2/1992/34),

Deeply concerned at the information it contains relating to the traffic in persons and the exploitation of the prostitution of others, the sale of children, child prostitution and child pornography, the exploitation of child labour, debt bondage, the slavery-like practices of apartheid and colonialism, and the phenomenon of child soldiers,

1. Expresses its appreciation to the Working Group on Contemporary Forms of Slavery for its valuable work, in particular the progress made at its seventeenth session in executing its programme of work, and for its continued broad approach and flexible methods of work;

I. SALE OF CHILDREN, CHILD PROSTITUTION AND CHILD PORNOGRAPHY

A. Special Rapporteur on the sale of children, child prostitution and child pornography

2. Welcomes the decision of the Commission on Human Rights, contained in its resolution 1992/76 of 5 March 1992, to extend the mandate of the Special Rapporteur, Mr. Vitit Muntarbhorn, for three years, while maintaining the annual reporting cycle;

3. Takes note of the information on these problems supplied by participants at the seventeenth session of the Working Group and requests the Centre for Human Rights to transmit this information to the Special Rapporteur, along with the recommendations relating to his mandate;

4. Requests the Special Rapporteur, within the framework of his mandate, to pay increased attention to issues relating to trafficking in children, such as organ transplantation, the use of child labour, disappearances, the purchase and sale of children, adoptions for commercial or exploitative purposes, child prostitution and the involvement of children in armed conflicts;

B. Programme of Action for the Prevention of the Sale of Children, Child Prostitution and Child Pornography

5. Requests the Secretary-General, in accordance with Commission on Human Rights resolution 1992/74 of 5 March 1992, to invite all States to inform the Sub-Commission of measures adopted to implement the Programme of

Action for the Prevention of the Sale of Children, Child Prostitution and Child Pornography, contained in the annex to resolution 1992/74;

6. Requests the Working Group to examine the state of the implementation of the Programme of Action at its eighteenth session and to transmit, through the Sub-Commission, a report thereon to the Commission at its fiftieth session;

C. Removal of organs from children

7. Requests the Secretary-General to invite all Governments, United Nations bodies, including the United Nations Children's Fund, the specialized agencies, in particular the World Health Organization, and all relevant non-governmental organizations, in particular the International Criminal Police Organization (INTERPOL), to pursue their investigations of allegations involving the removal of organs from children and to indicate the measures taken, if any, to counteract this practice wherever it exists, with a view to presenting a report to the Working Group at its eighteenth session;

II. EXPLOITATION OF CHILD LABOUR AND DEBT BONDAGE

8. Reiterates its request to the Commission on Human Rights to authorize it to consider the possibility of appointing a special rapporteur to update Mr. Abdelwahab Bouhdiba's report on the exploitation of child labour (E/CN.4/Sub.2/479), submitted to the Sub-Commission at its thirty-fourth session in 1981, and to extend that study to the problem of debt bondage;

9. Decides to transmit to the Commission on Human Rights the draft programme of action for the elimination of the exploitation of child labour, as reformulated by the Working Group on Contemporary Forms of Slavery on the basis of comments submitted by States, specialized agencies and interested non-governmental organizations pursuant to Commission on Human Rights resolutions 1991/54 of 6 March 1991 and 1992/74 of 5 March 1992, contained in the report of the Working Group (E/CN.4/Sub.2/1992/34, annex I);

10. Decides to keep the question of the eradication of debt bondage under consideration and to assess the progress achieved;

III. CHILD SOLDIERS

11. Takes note of the report of the Secretary-General on the recruitment of children into governmental and non-governmental armed forces (E/CN.4/Sub.2/1992/35 and Add.1);

12. Expresses its deep concern that in many parts of the world children are recruited into armed forces, and that some Governments and non-governmental entities encourage and sometimes compel children to take part in hostilities;

13. Requests the Working Group to continue to give attention to this question at its eighteenth session;

IV. PREVENTION OF TRAFFIC IN PERSONS AND EXPLOITATION OF THE PROSTITUTION OF OTHERS

14. Considers it necessary to promote the implementation of international norms and standards concerning the suppression of the traffic in persons and the exploitation of the prostitution of others and to strengthen the implementation mechanism of the Convention for the Suppression of the Traffic in Persons and of the Exploitation of the Prostitution of Others;

15. Requests the Secretary-General to make available to the Working Group on Contemporary Forms of Slavery a summary of the replies received from Governments, specialized agencies and intergovernmental and non-governmental organizations relating to the draft programme of action for the prevention of traffic in persons and the exploitation of the prostitution of others, pursuant to Commission on Human Rights resolution 1992/36 of 28 February 1992;

16. Also requests the Secretary-General to convey to the World Tourism Organization the grave concern of the Working Group with regard to sex tourism, together with a request that it convene, as a matter of priority, a meeting to discuss the consequences of sex tourism and ways of preventing this phenomenon, in particular when the prostitution of children is involved;

17. Recommends that States take urgent measures to protect minors from exposure to or involvement in child pornography and requests the Secretary-General to invite States to provide information on measures taken or already applicable in that regard;

18. Requests the Secretary-General to submit to the Special Rapporteur on the right to restitution, compensation and rehabilitation for victims of gross violations of human rights and fundamental freedoms information received by the Sub-Commission and its Working Group on Contemporary Forms of Slavery regarding the situation of women forced to engage in prostitution during wartime;

V. MACHINERY FOR MONITORING THE INTERNATIONAL CONVENTIONS ON SLAVERY

19. Recommends that the Secretary-General request the States parties to the international conventions on slavery to submit to the Sub-Commission, at regular intervals, reports on the situation in their countries, as provided for under the conventions;

20. Requests the Secretary-General to invite annually States which have not acceded to or have not ratified the international conventions on slavery to explain why they have not done so and to report on their replies to the Sub-Commission at its forty-fifth session and to the Commission at its fiftieth session, and to extend a similar invitation to States which have not ratified the conventions on forced labour of the International Labour Organisation;

21. Recommends that Governments avail themselves of the possibility of requesting assistance under the United Nations programme of advisory services in the field of human rights and of the technical assistance programmes of the specialized agencies, in particular that of the International Labour Office;

22. Urges the specialized agencies to give particular attention to poverty as a factor leading to or perpetuating slavery and slavery-like practices and to include in their technical assistance programmes activities designed to eliminate slavery and slavery-like practices;

23. Requests the Secretary-General, when preparing his next report on the status and implementation of the international conventions on slavery, to include a list of States which have not yet signed, ratified or acceded to those instruments;

VI. UNITED NATIONS TRUST FUND ON CONTEMPORARY FORMS OF SLAVERY

24. Calls for the immediate implementation of General Assembly resolution 46/122 of 17 December 1991 establishing the United Nations Trust Fund on Contemporary Forms of Slavery and appeals to all Governments to respond favourably to requests for contributions to the Fund;

VII. MISCELLANEOUS

25. Requests the Working Group to study the possibility of preparing guiding principles for combating the various contemporary forms of slavery and to endeavour to identify the spheres in which such guiding principles could be applied;

26. Requests the Secretary-General to seek the views and suggestions of Member States and governmental and non-governmental organizations on this subject with a view to the consideration of their replies by the Working Group at its future sessions;

27. Recommends that the Human Rights Committee, the Committee on Economic, Social and Cultural Rights, the Committee on the Elimination of Discrimination against Women and the Committee on the Rights of the Child, when examining the periodic reports of States parties, give particular attention to the implementation of, respectively, articles 8 and 24 of the International Covenant on Civil and Political Rights, articles 10, 12 and 13 of the International Covenant on Economic, Social and Cultural Rights, article 6 of the Convention on the Elimination of All Forms of Discrimination against Women and articles 32, 34 and 36 of the Convention on the Rights of the Child, with a view to combating contemporary forms of slavery;

28. Also recommends that the supervisory bodies of the International Labour Organisation and the Committee on Conventions and Recommendations of the United Nations Educational, Scientific and Cultural Organization give particular attention in their work to the implementation of provisions and standards designed to ensure the protection of children and other persons exposed to contemporary forms of slavery, such as the sale of children, child prostitution and child pornography, the exploitation of child labour, bonded labour and the traffic in persons;

29. Requests the Secretary-General to transmit to the above-mentioned committees, the special rapporteurs concerned and the Working Group on Enforced or Involuntary Disappearances the present resolution, as well as the report of the Working Group on its seventeenth session, drawing their attention to the recommendations contained therein of relevance to them and transmitting any information which is of concern to them;

30. Also requests the Secretary-General to invite news agencies, the press, television and radio to contribute, particularly within the context of the World Conference on Human Rights, to the rapid elimination of slavery in all its contemporary forms by ensuring wide and effective publicity about existing cases of slavery, the slave trade, other slavery-like practices, trafficking in persons and exploitation of the prostitution of others, and also requests that similar awareness be promoted by the Department of Public Information of the United Nations Secretariat;

31. Notes with appreciation that the Commission on Human Rights, in its decision 1992/115 of 3 March 1992, decided to approve the request of the Sub-Commission to the Secretary-General to examine the possibility of organizing the sessions of the Working Group for eight working days during the month of April or May and recommends that such arrangements be repeated in subsequent years;

32. Requests the Secretary-General to schedule periods of consultation of the Special Rapporteur on the sale of children at the Centre for Human Rights to coincide with the future sessions of the Working Group and, if this cannot be arranged, requests the presence at those sessions of the officer of the Centre for Human Rights who assists the Special Rapporteur;

33. Again requests the Secretary-General to reassign to the Working Group a full-time Professional staff member of the Centre for Human Rights, as was the case in the past, to work on a permanent basis to ensure continuity and close coordination within and outside the Centre for Human Rights on issues relating to contemporary forms of slavery, to prepare documentation well in advance, to facilitate the attendance at the sessions of the Working Group of the largest possible number of intergovernmental and non-governmental organizations with competence in the fields examined, and to report on the measures taken for this purpose to the Commission on Human Rights at its forty-ninth session and to the Working Group on Contemporary Forms of Slavery at its eighteenth session;

34. Again requests the Secretary-General to designate the Centre for Human Rights as the focal point for the coordination of activities in the United Nations for the suppression of contemporary forms of slavery and to report on the measures taken for this purpose to the Commission on Human Rights at its forty-ninth session and to the Working Group on Contemporary Forms of Slavery at its eighteenth session.

17th meeting
14th August 1992

[Adopted without a vote. See chap. XVI.]

1992/3. Contemporary forms of slavery

The Sub-Commission on Prevention of Discrimination and Protection of Minorities,

Recalling that the Charter of the United Nations reaffirms faith in fundamental human rights, in the dignity and worth of the human person and in the equal rights of men and women,

Affirming the mandate of the Sub-Commission on Prevention of Discrimination and Protection of Minorities to prevent discrimination, to discourage State practices that legitimize discrimination and to reinforce the international legal norm of non-discrimination,

Stressing that the Convention on the Elimination of All Forms of Discrimination against Women was adopted to eliminate discrimination against women in all its forms and manifestations,

Concerned that over 20 of the 107 States parties to that Convention have filed more than 80 substantive reservations with respect to their obligation to implement the Convention,

Concerned also that certain reservations to the Convention, in particular those in relation to the adoption of policies and institutional measures to implement the terms of the Convention (art. 2), political and public life (art. 7), discrimination in the field of employment (art. 11), equality of men and women before the law (art. 15) and marriage and family relations (art. 16), might diminish the international legal norm and legitimize its violation,

Aware that the third meeting of the States parties adopted a resolution expressing concern that these reservations might not be compatible with the object and purpose of the Convention,

Noting resolution 35/3 adopted by the Commission on the Status of Women at its thirty-fifth session, held from 27 February to 8 March 1991, in particular the invitation to the international community contained therein to mark in an appropriate manner the tenth anniversary of the entry into force of the Convention, and the encouragement of all States parties to make every effort to facilitate the implementation of the Convention at the national, regional and interregional levels,

Noting also that the Treaty Section of the Office of Legal Affairs of the United Nations Secretariat has given an opinion 1/ that neither the Secretary-General, as depositary, nor the Committee on the Elimination of Discrimination against Women has the power to determine the compatibility of reservations with the Convention,

Recalling its decision 1991/115 of 29 August 1991 in which it decided to suspend consideration of draft resolution E/CN.4/Sub.2/1991/L.49 recommending to the Commission on Human Rights that it propose to the Economic and Social Council that the Council request the International Court of Justice to give an advisory opinion on the validity and legal effect of reservations to the Convention on the Elimination of All Forms of Discrimination against Women,

Noting that at its seventeenth session the Working Group on Contemporary Forms of Slavery invited the Sub-Commission to take a decision on the question in the light of replies from the Committee on the Elimination of Discrimination against Women and the Commission on the Status of Women,

1. Requests the Secretary-General to seek the views of the Committee on the Elimination of Discrimination against Women and the Commission on the Status of Women on the desirability of obtaining an advisory opinion on the validity and legal effect of reservations to the Convention on the Elimination of All Forms of Discrimination against Women and to invite them, in their replies, to make such further observations on the issue of reservations to this Convention as they may consider appropriate;

2. Also requests the Secretary-General to report the results of the above consultations to the Sub-Commission at its forty-fifth session;

3. Decides to reconsider draft resolution E/CN.4/Sub.2/1991/L.49 at its forty-fifth session in the light of the replies received from the Committee on the Elimination of Discrimination against Women and the Commission on the Status of Women.

17th meeting
14 August 1992

[Adopted without a vote. See chap. XVI.]

1/ See Official Records of the General Assembly, Thirty-ninth Session, Supplement No. 45 (A/39/45), vol. II, annex III.

1992/4. Discrimination against women

The Sub-Commission on Prevention of Discrimination and Protection of Minorities,

Taking into consideration the objectives of the Nairobi Forward-looking Strategies for the Advancement of Women and of the Convention on the Elimination of All Forms of Discrimination against Women,

Having in mind the mandate of the Commission on the Status of Women and of the Committee on the Elimination of Discrimination against Women,

Noting with concern that the status of women has not greatly improved and that women in many areas continue to suffer discrimination, as described in the reports submitted by States parties to the Convention on the Elimination of All Forms of Discrimination against Women,

Noting also with concern the alarming information contained in the report of the Working Group on Contemporary Forms of Slavery (E/CN.4/Sub.2/1992/34), in particular with regard to prostitution and exploitation,

Recognizing the consequences of conflicts for women in view of their special vulnerability to violence of all kinds,

Recognizing also the harmful effects of certain traditional practices and social attitudes on the health and well-being of women,

1. Reaffirms that women's rights are recognized as inalienable human rights and that they should be treated as such in all United Nations bodies, including the Commission on Human Rights;

2. Recommends that the forthcoming World Conference on Human Rights give priority to the question of discrimination affecting women and their status, both in its agenda and in the documentation prepared for the World Conference;

3. Also recommends that information on the equality and empowerment of women, and their access to equality in education, work, health and literacy, be included in States' reports to all human rights monitoring bodies and not only to the Committee on the Elimination of Discrimination against Women;

4. Requests the Secretary-General to report on the implementation of the present resolution to the Sub-Commission at its forty-fifth session.

17th meeting
14 August 1992

[Adopted without a vote. See chap. XVII.]

B. Decisions

1992/101. Establishment of a sessional working group on detention

At its 2nd meeting, on 4 August 1992, the Sub-Commission decided, without a vote, to establish a sessional working group on detention.

[See chap. III.]

1992/102. Organization of work

At its 2nd meeting, on 4 August 1992, the Sub-Commission decided, without a vote, to invite the following persons to participate in its meetings:

(a) In connection with item 4: Mr. Luis Varela Quirós, Special Rapporteur, to submit his final report on discrimination against HIV-infected people or people with AIDS (E/CN.4/Sub.2/1992/10);

(b) In connection with item 4 and 8: Mr. Danilo Türk, to submit an updated report on the right of freedom of opinion and expression together with Mr. Louis Joinet (item 4) (E/CN.4/Sub.2/1992/9) and to submit his final report on the realization of economic, social and cultural rights (item 8) (E/CN.4/Sub.2/1992/16);

(c) In connection with item 10 (a): Mrs. Mary Concepción Bautista, to submit a final report on measures to protect United Nations staff members and their families (E/CN.4/Sub.2/1992/19) and to submit an updated report on the application of the international standards concerning human rights of detained juveniles (E/CN.4/Sub.2/1992/20);

(d) In connection with item 10 (d): Mr. William Treat to submit his third report on the right to a fair trial together with Mr. Stanislav Chernichenko (E/CN.4/Sub.2/1992/24 and 24/Add.1 to 3);

(e) In connection with item 14: Mr. Murlidhar Bhandare, to submit a working paper on the interrelationship between human rights and international peace (E/CN.4/Sub.2/1991/32 and Corr.1);

(f) In connection with item 17: Mr. Dimitru Mazilu, Special Rapporteur, to submit his final report on human rights and youth (E/CN.4/Sub.2/1992/36);

(g) In connection with the report on the forty-eighth session of the Commission on Human Rights: Mr. Pál Solt, Chairman of the forty-seventh session of the Commission on Human Rights (E/CN.4/1992/84).

[See chap. III.]

1992/103. Situation of human rights in Yugoslavia

At its 14th meeting, on 13 August 1992, the Sub-Commission decided, without a vote, to adopt the following text:

"The Sub-Commission on Prevention of Discrimination and Protection of Minorities, meeting at its forty-fourth session, noting the convening of the special session on the former Yugoslavia of the Commission on Human Rights, taking into account that the right to life and other fundamental human rights are being extensively violated in the former Yugoslavia and conscious that the protection of different ethnic groups is at the core of the mandate of the Sub-Commission,

"Expresses its horror and its total and unqualified condemnation of policies of so-called 'ethnic cleansing', which in the former Yugoslavia has generated vast displacements of people and large flows of refugees of the different ethnic groups, and in Bosnia and Herzogovina has affected, in particular, the Muslim population;

"Also expresses its deep concern at the existence of detention centres and allegations of serious human rights violations in those centres;

Demands:

"(a) That steps be taken on an urgent basis to stop the massive violations of the right to life and other human rights;

"(b) That the policies and practices of so-called 'ethnic cleansing' be immediately brought to an end;

"(c) That displaced people be given the opportunity to return to their homes and that their safety be ensured;

"(d) That full reparation be made for losses suffered as a result of the displacement;

"(e) That those responsible for the commission of crimes be brought to justice and that steps be taken as a matter of urgency to this end."

The Sub-Commission further decided to request its Chairman to transmit the decision to the Chairman of the Commission on Human Rights, meeting in special session.

[See chap. VI.]

1992/104. Human Rights and scientific and technological developments

At its 17th meeting, on 14 August 1992, the Sub-Commission decided, without a vote, to consider at its forty-sixth session the possibility of elaborating new human rights standards relating to scientific developments which can affect the mental condition or the genetic structure of human beings. The issue will be considered under the agenda item entitled "Human rights and scientific and technological developments".

[See chap. XII.]